Ensuring Independent Living and Deinstitutionalisation

CRITERIA FOR THE ASSESSMENT OF EU FUNDED CALL FOR PROPOSALS AND PROJECTS IN THE 2021–2027 PERIOD

BRIDGE EU

ENIL

Instytut Niezależnego Życia

VALIDITY

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1. Why assessment criteria?

All EU funds operations should follow the EU and international law, in particular fundamental rights and non-discrimination requirements.

At the same time, practice shows that the use of EU funds does not necessarily meet these requirements. For example, EU funds have been used to support further segregation of marginalised communities (people with disabilities, people with a Roma and migrant background, homeless, etc) which have been reported by non-governmental and international organisations[1]. This assessment criteria aims to translate the measures of EU funds programs for the 2021–2027 period to the implementation phase, namely to assess the call for proposals and projects in the fields of deinstitutionalisation, independent living and to prevent and tackle human rights violations.

2. What for?

The objective of this assessment criteria[2] is to ensure measures supported by EU funds in the 2021–2027 programming period contribute to independent living and inclusion in the community, in compliance with EU and Member State obligations under international and EU law.

To do so, the assessment criteria support the relevant authorities to check the consistency of the measures of the call for proposals and projects with the legal and policy frameworks in the fields of:

- Creating opportunities for people to move from institutions to community-based services, biological or foster families for children deprived from parental care, including children with disabilities, adults with disabilities, persons with psychosocial disabilities and older persons;

1. See for example (non-exhaustive list): CADO and CERE (2022) Metogologie pentry monitorizarea incluziunii / segregatrii scolare a copiilor romi; United National General Assembly (2022) Visit to the European Union Report of the Special Rapporteur on the rights of persons with disabilities, Gerard Quinn, A/HRC/52/32/Add.1; Validity (2020) Commission Fails to Stop Romania and Estonia from Segregating Citizens with Disabilities ; European Network on Independent Living (2017) European Union Structural and Investment Funds and the Transition from Institutional care to community living: Towards a more effective monitoring complaints system.
2. They are based on: EU funds checklist to promote independent living and deinstitutionalisation, Guidance for Member States on the use of EU Funds in tackling educational and spatial segregation, Toolkit on the use of EU funds for the integration of people with a migrant background.

- Closing down institutions during humanitarian emergency situations, such as pandemics, natural disasters or conflicts;
- Development of quality, in-home and inclusive community-based services, foster parents' network;
- Prevention of separation of children, including with disabilities, from their families;
- Prevention of segregation and institutionalisation of children, adults with disabilities, children deprived from parental care, persons with psychosocial disabilities, older persons and homeless people, regardless of residence status.

3. What are institutions?

In this chapter, the characteristics of institutional treatment are explained, together with a non-exhaustive list of institutions.

According to General Comment 5 of the UN Convention on the Rights of Persons with Disabilities (UN CRPD)[3] and the CRPD Guidelines on deinsitutionalization, including in emergencies[4], defining elements of institutions include:

- "Obligatory sharing of assistants with others and no or limited influence as to who provides the assistance;
- isolation and segregation from independent life in the community;
- lack of control over day-to-day decisions;
- lack of choice for the individuals concerned over with whom they live;
- rigidity of routine irrespective of personal will and preferences;
- identical activities in the same place for a group of individuals under a certain authority;
- a paternalistic approach in service provision;
- supervision of living arrangements;
- and a disproportionate number of persons with disabilities in the same environment"[5].

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3. UN CRPD General comment No.5 on Article 19 – the right to live independently and be included in the community, CRPD/C/GC/5
4. UN CRPD Guidelines on deinstitutionalization, including in emergencies, CRPD/C/5, para 14
5. The bullet points have been added, they are not part of the original text.

Institutions may include the following (non–exhaustive list)[6]:

- Residential institutions both for adults and children regardless of the size or name;
- reception centres;
- detention centres;
- elderly homes;
- group homes;
- family–type homes;
- community–based living arrangements where accommodation and services are bundled together (regardless of size or name);
- social care institutions;
- psychiatric institutions;
- long–stay hospitals;
- nursing homes;
- secure dementia wards;
- special boarding schools; rehabilitation centres other than community–based centres, half–way homes;
- sheltered or protected living homes;
- forensic psychiatric settings, transit homes;
- albinism hostels;
- leprosy colonies and other congregated settings;
- mental health settings where a person can be deprived of their liberty for purposes such as observation, care or treatment and/or preventive detention are a form of institutionalization.

Terminology

Terminologies used throughout this documents are grounded in international and EU law and standards. National and regional authorities are invited to apply the officially translated terminologies. These should be also part of the national legislation.

If some of the terminologies used at the national level are not consistent with these standards like the UN Convention on the Rights of Persons with Disabilities (see chapter 6 for an overview), national authorities should make sure these measures are not supported with EU funds. If the consistency of some terminologies is not clear, it should be clarified in order to make them eligible for EU funds support.

6. This list is partly based on UN CRPD General Comment 5, UN CRPD guidelines on deinstitutionalization, and partly based on other policy documents (e.g. Toolkit on the use of EU funds for the integration of people with a migrant background)

4. What does it cover?

The assessment criteria covers calls for proposals and projects in the scope of the 2021–2027 programming period, in particular measures supported by:

- European Regional Development Fund (ERDF);
- European Social Fund Plus (ESF+);
- European Agricultural and Rural Development Fund (EAFRD);
- Asylum, Migration and Integration Fund (AMIF);
- Recovery and Resilience Facility (RRF).

The assessment criteria might be used for assessment of calls for proposals and for the assessment of projects. It might be relevant in the fields of (non-exhaustive list):

- Transition from institutional to community-based services;
- Social inclusion and non-discrimination of people with disabilities;
- Labour market integration of people with disabilities;
- Social and health infrastructure development;
- Infrastructural developments in public buildings (e.g. energy efficiency);
- Digitalisation of public and private services;
- Equal access to public services for marginalized groups, including people with disabilities;
- Humanitarian emergency situations, such as pandemics, natural disasters or conflicts.

5. Who is it for?

In this chapter, the stakeholders may benefit from the assesment criteria are described, and why:

- Managing authorities and intermediary bodies at national and regional level, given that they may design call for proposals, assess and select projects, and monitor their implementation;
- Projects applicants (NGOs, service providers, local authorities, etc), given that their projects should comply with the legal requirements.

- Desk officers of DG EMPL, DG REGIO, DG AGRI, DG HOME, DG ECFIN, which may provide feedback on the call for proposals, may need to assess complaints, etc;
- External experts, involved in the project assessment, might also use the assessment criteria, in order to ensure that project applicants are in full compliance with the legal requirements.

6. What is it based on?

The assessment criteria are based on international and European legal instruments. In the below, an overview of the key instruments are provided:

- UN Convention on the Rights of People with Disabilities[7];
- General Comment 5 of the UN CRPD[8];
- CRPD Committee Guidelines on Deinstitutionalization, including in Emergencies[9];

- Country-specific concluding observations, inquiries of the CRPD Committee;
- UN Convention on the Rights of the Child[10];
- EU Charter of Fundamental Rights[11];
- Racial Equality Directive 2000/43[12];
- Common European Asylum System[13].

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7. The reference to residential services in article 19 CRPD should not be used to justify the maintenance of institutions. Residential services are community-based support services aimed at ensuring equality and non-discrimination in the exercise by persons with disabilities of their right to adequate housing. Examples of residential services can include social housing, self-managed co-housing, free matching services, and assistance in challenging housing discrimination. See: CRPD Guidelines on deinstitutionalization, including in emergencies (2022)
8. CRPD/C/GC/5
9. CRPD/C/5
10. United Nations Convention on the rights of the child (1989) Treaty no. 27531. .
11. Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012
12. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin
13. The Common European Asylum System (CEAS) encompasses among others the Qualification Directive, Dublin Regulation, Asylum Procedures Directive, Reception Conditions Directive.

7. Assessment criteria

The following assessment criteria should be used in reviewing call for proposals and projects. The criteria listed below provides the most important legal and policy requirements, which ensure independent living and inclusion in the community in the course of the deinstitutionalisation process.

The user of the assessment criteria should check whether the requirements below are followed or not in the call for proposal or projects.

In case of non-consistency with the requirements, the following actions should be considered:
- suspension of the call for proposals, projects
- modification of the call for proposals, projects
- cancelling and after modification, reopening the call for proposals.

#1 OBJECTIVES

Please check whether any of the following objectives/priorities are explicitly mentioned in the call for proposal and projects. If another objective has been included, please check that this objective is in line with the legal obligation listed above (p. 5).

The assessment of the objectives and priorities should be based on systematic data collection or research.

Ensuring that people can move out of institutions into the community, and to enjoy their right to independent living should be the first priority. It should also help to prevent further institutionalisation and segregation, taking into account the closure of residential institutions.

- Moving from institutional care to the community, by having access to biological and foster families and community-based services, including the closure of institutions
- Developing community-based reception services for asylum seekers
- Development of community-based services together with the closure of institutions, ensuring access to biological and foster families, including personal assistance services and home care
- COVID-19 needs and challenges and corresponding actions
- Prevention of separation of children from their families
- Prevention of further institutionalisation (segregation)

#2 NEEDS ASSESSMENT

Please check that the following types of needs assessment are included in the call for proposal and projects.

- Individual needs assessment, i.e. person centred planning (e.g. for individuals in institutions or at risk of institutionalisation, children, persons with disabilities, persons with psychosocial disabilities, older people, homeless people, etc.)

- Infrastructure mapping (e.g. childcare, residential institutions, community-based services, homeless shelters, closed reception centres, etc.)
- Human capital mapping (e.g. number and structure of workforce in institutional care, numbers and structure of workforce in community-based services, foster parents network, coordination structures, relevant networks and organisations, organisations of people with disabilities and others)

#3 SEQUENCE OF CALLS

Please check that the following steps are followed by the call for proposals and projects. This sequence is essential to identify the support systems and to respond to the needs.[14]

- Identification of gaps in supporting the needs of the target groups;
- Development of pilot projects;
- Ensuring that wide range of support mechanisms and services exist in the community, including for persons with more intensive (24 h) support requirements;

- Ensuring that support services respond to the needs of the target group;
- Ensuring that the target group, including those who may require support in choosing and managing their support (e.g. guardians), have real choice.

14. See for further information: CRPD/C/5

#4 TARGET GROUPS

Please check that identification of the target groups residing in institutions or at risk of institutionalisation (see examples below) in the call for proposals and projects is based on the needs assessment (e.g. research/systemic data collection). As it was highlighted in #1, the priority should be allocated to ensuring that people are able to move out of institutions into the community, in line with their right to independent living.

- Children deprived from parental care and children with disabilities
- Children in migration
- Unaccompanied children
- Asylum seekers, refugees and undocumented people
- Care leavers, including with disabilities
- Persons with disabilities
- Persons with psychosocial disabilities
- Older persons
- Homeless people

#5 COMMUNITY-BASED MEASURES

Human capacity development of services should precede infrastructure developments (e.g. physical building of services).

Please check whether the measures below, aiming to ensure the development of community-based services, access to biological and foster families, and support independent living (including infrastructure and human capacity developments), are included in the call for proposals and projects (the list represents examples, the assessment of the measures in the call for proposals or projects should follow the identified needs).

If other measures have been included, please check that they are in line with the legal obligations listed above on.[15]

- Support for independent living, such as self-advocacy, peer support, circles of support, in particular for people leaving institutions;
- Tailored transitional financial packages for persons leaving institutions to ensure an adequate standard of living in the community[16];
- Home care services (e.g. services below, as well as social workers, nurses, etc);
- Personal assistance;
- Technical aids and assistive; technologies (e.g. wheelchairs, social alarms, hearing and visuals aids, communication aids etc.);
- Accessible housing, housing adaptations at home, subsidized housing or rent support;
- Non-segregated social housing within the community (e.g. housing first programme for homeless people), affordable housing for marginalised people;

15. Community-based and support services include personal assistance, peer support, supportive caregivers for children in family settings, crisis support, support for communication, support for mobility, provision of assistive technology, support in securing housing and household help, and other community-based services. community-based support services, including in-home, and other support services, and personal assistance, should prevent the emergence of new segregated services, group housing – including 'small group homes' – sheltered workshops, institutions for the provision of 'respite care', transit homes, day-care centres, or coercive measures such as community treatment orders are not community-based services. See for further information: CRPD/C/5
16. Persons with disabilities should receive individualized and direct funding that provides for basic income security, coverage of health-care and disability-related costs, including components related to repairing the harm caused by institutionalization, in accordance with their will and preferences. Individual funding should be regularly revised according to the person's requirements and in case of emergencies. See for further information: CRPD/C/5

#5 COMMUNITY-BASED MEASURES

- Extension of community-based social and healthcare services in order to include specific services for people with disabilities;
- Community-based reception facilities (e.g. people with a migrant background);
- Accessibility of services and built environment, for instance accessible public transport, public buildings, etc.
- Inclusive and non-segregated education-related measures, for instance, inclusive schools, early childhood education and care, etc;
- Availability of, and arrangements for, children to attend mainstream nurseries, kindergartens and schools;
- Out-of-school care and after-school activities, including for children with additional support needs;
- Employment-related measures, vocational and skills training, apprenticeships;
- Support for kinship carer/parent, support for foster carer/parent;
- Strengthening of foster care/parents networks;
- Strengthening the adoption framework;
- Provision of legal aid to people in institutions and the community, to prevent institutionalisation
- Services that support reintegration of children into their families of origin;
- Social work, including counselling and advice services, including case work and appropriate referrals;
- Mental health and addiction support, including community-based mental health care centres;
- Capacity building of organisations representing any of the target groups.

#6 PREVENTION MEASURES

Please check that the measures below, which ensure the prevention of family separation and family support services, are included in the call for proposals and projects (these are examples, the assessment of the measures should follow the identified needs). If other measures have been included, please check that they are in line with the legal obligations listed above on page 3.

- Pre-natal care
- Counselling desks in hospitals
- Support in maternity wards (e.g. rooming-in)
- Family planning

- Foster care for children
- Early childhood and care services
- Legal aid
- Accessible housing, combined with community-based support, housing adaptations at home, subsidized housing or rent support;
- Non-segregated social housing within the community (e.g. housing first programme for homeless people), affordable housing for marginalised groups.

#7 TRAINING MEASURES

Please check that the following training activity measures are included in the call for proposal and projects (both in the scope of supporting independent living and prevention of family separation). These are examples, the assessment of the measures should follow the identified needs. If other measures have been included, please check that they are in line with the legal obligations listed above on page 3.

- Training, including delivered by peers, to support independent living for people leaving institutions and at risk of institutionalisation;
- Training for personal assistants and other staff engaged in delivering community-based services;

#7 TRAINING MEASURES (CONT)

- Training and support for persons with disabilities on managing personal budgets (e.g. to employ personal assistants, buying services);
- Trainings for family members and informal carers;
- Retraining institutional care staff to work in the new community-based service or in other sectors[17];
- Trainings on inclusive education for teachers and other school professionals;

- Trainings on the rights of persons with disabilities, children deprived from parental care, asylum seekers, homeless, etc for workers of the social/care, health, education and other sectors, as well as for persons of any of the target groups and their family members.

#8 EXCLUDED MEASURES

Please check that across all supported thematic areas of EU funds (e.g. social inclusion, energy efficiency, digitalisation and e-governance, etc), all following measures, which violate the legal obligations listed on page 5, are excluded from the call for proposal and projects.

- Investments in residential institutions, regardless of the size. This may include investments for the building, renovating, refurbishing, extension of institutions, divisions of large institutions into smaller institutions[18] and any other types of investments benefiting the institution. It may also include services, such as day-care centres or living units built within, or on the grounds of, or adjacent to, existing institutions, sheltered workshops, training/capacity building of staff working in the institution;

17. Where persons have been convicted of criminal charges (e.g. abuse in institutions), they should not be allowed to work in community based services.
18. This process might be called as trans-institutionalisation.

#8 EXCLUDED MEASURES (CONT)

- Investments in closed and isolated detention and reception centres;
- Investments in facilities that segregate persons with disabilities in violation of Article 19 CRPD;
- Housing, homeless shelters, built in segregation/isolation from the community (for example, on the outskirts of towns or in sparsely populated areas);
- Investing in mainstream services which are not accessible (such as building schools not accessible to children with disabilities);
- Congregated social housing and supported/assisted/sheltered/protected living (aimed at, for example, only people with disabilities, refugees etc.);

- Building of community-based services, foster parents network without the closure of residential institutions[19] at local, regional and national level;
- Infrastructure and human capacity development of residential care services as a response to emergency situation, including the transfer of children and adults residing in institutions from Ukraine;
- Investments in temporary housing/accommodations.

#9 CONSULTATION

Please check that the independent civil society organisations representing rights holders and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, children, families, the homeless, older people, gender equality and non-discrimination are consulted on the call for proposals and projects, and actively involved in the implementation, monitoring and evaluation[20].

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19. As a first step of the project, the number of places built in the community might be equal to the number of places closed down in the residential institution. But it can be only done if by the end of the project the residential institution will be closed down.

20. Persons with disabilities, and their representative organizations should be involved and lead all stages of deinstitutionalisation processes, in accordance with articles 4 (3) and 33 of the Convention. Service providers, charities, professional and religious groups, trade unions and those with financial or other interests in keeping institutions open should be prevented from influencing decision-making processes related to deinstitutionalisation. See for further information: CRPD Guidelines on deinstitutionalization, including in emergencies (2022)

#10 CONSULTATION FOLLOW UP

Please check that the relevant bodies listed in point 9. are informed about how their inputs were taken on board in the consultation of the call for proposals and projects.

#11 REPRESENTATIVENESS

Please check that the complaints about the lack of representativeness of the bodies consulted in the consultation of the call for proposals and projects are discussed and the outcomes are included.

#12 GUIDING PRINCIPLES

Please check that these guiding principles are explicitly included in the call for proposals and projects.

- Operations exclude investments that lead to institutionalization (segregation) or social exclusion, or trans–institutionalisation (see also point 9);

- Operations create conditions for living independently and being included in the community;
- Operations ensure accessibility
- ·Synergetic/integrated use of funds (ERDF, ESF+, EAFRD, AMIF, RRF);
- Protection of privacy and personal data.

#13 CALL FOR PROPOSALS

Please check whether the call for proposal is part of:

- A sequence of calls which complement each other to achieve integrated actions and a comprehensive approach (e.g. supporting people to move from institutions to community, which requires building social housing, training of community based care providers and personal assistants, etc). The sequence of calls may where relevant require applicants to apply to different calls;

- A complementary approach which ensures the existence of both infrastructure and human capital developments and the corresponding use of EU funds (e.g. ESF+ together with ERDF, etc).

#14 INDICATORS

Please check that the call for proposals and projects include the following indicators. These are examples, the assessment of the indicator should follow the identified needs. If other indicators have been included, please check that they are in line with the legal obligations listed above on page 3.

- Number of people using the newly-developed community-based services;
- Number of closed down institutions;
- Number of people moved out of closed and isolated detention and reception centres;
- Number of people using personal assistance;

- Number of newly-developed housing options that allow people to live in their own home in the community;
- Number of persons (e.g. children deprived from parental care and with disabilities, adults with disabilities, persons with psychosocial disabilities, older people, homeless people) who moved out of the institutions to live independently in the community;
- Number of children deprived from parental care reintegrated with their biological families;

#14 INDICATORS (CONT)

- Number of people using family assistance;
- Number of children deprived from parental care placed in foster families;
- Number of sheltered homeless people moved into permanent (supported) housing at home;
- Capacity of new or modernised social housing;
- Capacity of new or improved community-based services (other than housing).